

How Do I Stay Out of Trouble When Working with Companies?

Developing corporate partnerships involves personal relationships; money; government property, resources, and personnel; intellectual property; and your status as a government employee. When stepping into this potentially volatile mix, you need to always be mindful of your responsibilities and restrictions as a Federal employee and as an ARS scientist. ARS scientists cannot do many things that are standard procedure for partnership building in the corporate world and you and your potential partners need to be aware of this.

This document highlights important issues as a reminder of the types of possible pitfalls you should avoid. However, especially since there are many gray areas, you should contact your Area Ethics Advisor, TTC, and/or NPL for guidance when there is even slight doubt about the appropriateness of action – or inaction. Consequences of getting in trouble with these items range from disciplinary action to termination to imprisonment.

Intellectual Property and Proprietary Concerns

- Confidentiality
 - Partnerships are based on trust and confidentiality is an important part of that trust for corporations. Respect the confidentiality of corporate, proprietary information, even in the absence of a Confidentiality Agreement. Ask before sharing information.
 - Do not share proprietary information without a signed Confidentiality Agreement in place. Trust but verify.
 - Do not sign any Confidentiality Agreement without first consulting with your TTC.
- Materials transfer
 - Research partnerships often require exchange of materials
 - Even the most innocuous-seeming research materials may generate proprietary interest. You need to protect the public's interests in ARS research materials and the interests of others in research materials from other sources that you use or share.
 - Consult with your TTC about the need for a Materials Transfer Agreement before exchanging research materials outside ARS.
- Publication
 - As a government scientist, you are working for the national interest and publication of your research results is an essential return on public investment in your research.
 - Never agree not to publish your results.
 - You may delay publication if necessary for a reasonable period to protect U.S. and foreign intellectual property rights if formally requested in writing. Consult with your TTC regarding such requests.
- Patent and licensing
 - Consult with your TTC before working on similar lines of research with more than one partner; otherwise, you may develop conflicting intellectual property rights issues with legal consequences.

Mission

- ARS is a research agency and does not test products unless as a key part of research endeavor.
- ARS must maintain the integrity and appearance of integrity of the Agency as an unbiased source of scientific information and for the conduct of science in the national interest. Therefore, there may be some areas of research that require caution before committing to an industry partnership. The issues in these areas are often complex; therefore, consult with your NPL and Area Director prior to initiating cooperative work where such concerns may exist.

For example, some areas that may have potential for concern and require NPL and Area Director consultation include:

- Research that is focused on testing a specific product in a way that does not foster broader understanding of a general class of products or does not address an issue of national public good.
- Research in directions that are in conflict with Federal policies, regulations, and/or guidelines.

Use of ARS facilities

- ARS facilities and equipment are Federal property intended for the achievement of ARS' mission. Use of ARS facilities by an industry partner are appropriate as part of work of mutual interest that is part of a research agreement between ARS and that partner. Consult with your Area Office regarding use of ARS facilities and equipment to work on problems outside of the scope of an agreement.

Ethics

- Gifts (including food) from Outside Sources
<http://ethics.usda.gov/rules/guides/ata glance.htm#b>
- Impartiality in Performing Official Duties -
<http://ethics.usda.gov/rules/guides/ata glance.htm#e>
- Seeking Other Employment - <http://ethics.usda.gov/rules/guides/ata glance.htm#f>
- Misuse of Position
 - Particularly note that you cannot use your position to endorse any product, service or company—even if it's a product that is based on ARS-developed technology. Decisions regarding the use of ARS' name and logo, as well as the use of your name, by a commercial entity or outside organization are the responsibility of the ARS Information Staff.
<http://ethics.usda.gov/rules/guides/ata glance.htm#g>. ARS discourages the use of quotations by ARS employees in any company's promotional materials (such as advertisements or press releases) or on their website; decisions on the appropriateness of quotations are made on a case-by-case basis by the ARS Director of Information. Discuss this issue with potential partners up front to prevent misunderstandings and inappropriate actions. Should you become aware that your results have been used in public media or in an advertisement, you must notify the ARS Information Staff immediately.
- Conflicting Financial Interests - <http://ethics.usda.gov/rules/guides/ata glance>
 - Especially give consideration to your existing intellectual property, royalties, and investments
- Acceptance of Travel Expenses From Non-Federal Sources -
<http://ethics.usda.gov/rules/issuances/99-2-travel.htm>

- Travel expenses may be covered as part of an established CRADA or other agreement
 - Decisions regarding approval of payment of travel expenses outside of an established agreement by a potential or established partner should be made only after consultation with the Area Ethics Advisor
- You are prohibited from “representing” another person before a Federal court or Federal agency in a “particular matter” in which the United States is a party or has an interest. <http://ethics.usda.gov/rules/guides/deskref.htm>

Personnel

- Non-Citizen Associates: A potential non-citizen associate must have a signed agreement between the non-citizen associate and the Agricultural Research Service on file prior to beginning work. Non-citizen associates need to complete the ARS-215 and ARS-230 if their stay is more than five consecutive days or five non-consecutive days within a 30-day period.
- U. S. Non-Federal Personnel: Potential U.S. non-Federal personnel who are U.S. citizens must have a signed agreement prior to beginning work with ARS. A U.S. citizen who does not have a primary employer may be placed on a Collaborator Appointment, effectively making him or her an unpaid employee of ARS. Collaborators are not “U.S. non-Federal personnel.”